

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Flightline of Sanford, Inc.

**DEPARTMENT:** County Attorney's Office

**DIVISION:** Litigation

**AUTHORIZED BY:** Lola Pfeil

**CONTACT:** Sharon Sharrer

**EXT:**

**MOTION/RECOMMENDATION:**

An amended business damage claim has been filed by Flightline of Sanford, Inc. relating to Parcel Numbers 103/703 on the County Road 15 project. The owners of Parcel Numbers 103/703 are Winston and Camini Singh. Flightline of Sanford, Inc. operated a business on the site and has claimed \$297,655.00 in damages for the complete loss of the business, exclusive of statutory interest, attorney's fees, and cost reimbursements. Request authorization to make a counteroffer based on the report of the County's business damage expert up to the amount of the claim filed. Judge Simmons.

District 5 Brenda Carey

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**BACKGROUND:**

see attached

**STAFF RECOMMENDATION:**

Staff recommends the Board gives authorization to make a counteroffer based on the report of the County's business damage expert up to the amount of the claim filed.

**ATTACHMENTS:**

1. Flightline of Sanford, Inc.

|   |
|---|
| <b>Additionally Reviewed By:</b><br>No additional reviews |
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COUNTY ATTORNEY'S OFFICE  
MEMORANDUM

To: Board of County Commissioners

Through: Matthew G. Minter, Deputy County Attorney *Matthew G. Minter*

From: David G. Shields, Assistant County Attorney  
Ext. 5736 *David G. Shields*

Concur: Pam Hastings, Administrative Manager/Public Works Department  
David V. Nichols, P.E., Principal Engineer/Engineering Division *Pam Hastings* 11-14-07

Date: November 15, 2007

Subject: Authorization to Respond to Business Damage Claim  
County Road 15  
Parcel Nos. 103/703  
Property owners: Winston and Camini Singh  
Business Tenant: Flightline of Sanford, Inc.  
Seminole County v. Sobik's of Airport Blvd., Inc., et al  
Case No. 2007-CA-826-13-K

This Memorandum requests authorization by the Board of County Commissioners ("BCC") to respond to the business damage claim of Flightline of Sanford, Inc.'s ("Flightline") on County Road 15. Flightline was a business tenant on Parcel Nos. 103/703 and conducted a hobby shop business on the site. The taking essentially wiped out the site's parking and Flightline cannot continue its business at this location. By statute, the County is required to accept or reject the claim or submit a counteroffer within 120 days after receipt of the claim. Flightline made its initial claim on April 13, 2007. Flightline made its amended business damage claim of \$297,655.00 exclusive of statutory interest, attorney's fees and costs reimbursement on October 22, 2007. By agreement between counsel, the County's response is due by January 18, 2008.

I PROPERTY

A. Location Data

The subject property is located at the east side of County Road 15 (Monroe Road) north of State Road 46 in a portion of unincorporated Seminole County. A location map is attached as Exhibit A and a parcel sketch as Exhibit B.

B. Street Address

The street address is 125 Monroe Road, Sanford, FL.

C. Description

The parent tract consists of 14,007 square feet and is improved with a hobby shop.

## **II AUTHORITY TO ACQUIRE**

The BCC adopted Resolution No. 2006-R-114 on May 9, 2006, authorizing the acquisition of Parcel Nos. 103/703 and finding that the County Road 15 is necessary, serves a public purpose and is in the best interests of the citizens of Seminole County. The Order of Take occurred on May 25, 2007, with title vesting in Seminole County on June 5, 2007, the date of the good faith deposit.

## **III ACQUISITION/REMAINDER**

The proposed acquisition consists of 1,492 square feet and is a rectangle shaped parcel off the subject's frontage on County Road 15. The temporary construction easement (TCE) contains 295 square feet and is also rectangular and will be used to blend the new right-of-way with the remainder property.

## **IV APPRAISED VALUES**

The County's initial appraised value of Parcel Nos. 103/703 was \$144,000.00 (\$142,300.00 for the fee and \$1,700.00 for the TCE). The County's appraisal was prepared by Florida Realty Analysts, Inc., and was approved by the County's MAI designated staff appraiser. The appraisal was updated for the order of taking hearing and the value did not change. The appraisal report only appraises the land, improvements, and possible severance damages. The appraisal report does not encompass business damages. The County has retained a separate expert, a certified public accountant, to evaluate Flightline's business damage claim.

The owners' report prepared by Calhoun, Dreggors & Associates on June 13, 2007, opines the before value at \$577,500.00. The owners used the County's after value of \$168,953.00 to arrive at a damages amount of \$408,547.00. Adding the County's value of the part taken, \$25,700.00, resulted in \$434,247.00 as the owners' "appraisal" value. Although, this is not standard appraisal methodology, the owners proceeded in this fashion in good faith to hold down appraisal costs while engaged in the early negotiation of this case. After negotiation, the County negotiated a settlement with the owners at \$225,000.00, subject to BCC approval.

## **V BUSINESS DAMAGES**

At the time of the taking, Flightline's business had been in operation at the site since 2001, and it therefore qualifies for business damages.

### **A. County's Business Damage Report**

The County has retained a certified public accountant as its expert on the business damage claim. The expert is examining supporting documents provided by Flightline with the amended claim. Therefore, the expert's analysis is not complete as of the date of this memorandum, but it is expected to be completed by the January 18, 2008 deadline to respond to Flightline's offer.

### **B. Tenant's Business Damage Report**

The tenant's amended business damage assessment was prepared by Morgenstern Phifer & Messina and opined business damages at totaling \$297,655.00. The business damages report claims a complete loss of the business as a result of the taking.

## **VII ATTORNEY FEES**

Attorney fees for business damage claims are based on the difference between the final judgment or settlement on the claim and the amount of the County's initial counteroffer. If there is no timely counteroffer, the counteroffer is deemed to be zero dollars. The same percentage attorney fee schedule is applied to this difference as is applied to the monetary benefits obtained as to land, improvements and damages. Therefore, it is important for the expert to review the claim and any and all supporting documents and recommend an appropriate response so as to minimize any claim for attorney fees.

## **VIII RATIONALE AND COST CONTROL**

The owners and Seminole County have reached an amicable settlement in the instant case inclusive of all compensation to the owners, attorney fees of any kind, all costs, interest and any other matter for which Seminole County may be obligated to pay the owners relating to these Parcels.

The County does not dispute that Flightline cannot continue its business on the remainder parcel because of the loss of the parking area. However, the County's expert is still evaluating whether the value of the business is as high as the owner claims. Also, the law is currently in flux whether the business owner can be required to minimize its damages by relocating its business to another site. A decision on this issue from the Fifth District Court of Appeal in a Florida Department of Transportation case is expected at any time.

The Florida Statutes force the County to respond to the business damage claim quickly or risk significant additional exposure for attorney fees. This memorandum is intended only to address the statutory requirement for

responding to the business damage claim of the business tenant and to protect the County on the matter of attorney fees.

## **VIII RECOMMENDATION**

County staff recommends that the BCC authorize the County Attorney's Office to make a counteroffer in response to Flightline's amended business damage claim in an amount to be based on the report of the County's business damage expert but not to exceed the business owner's demand. This amount will cover only business damages and is to be exclusive of statutory interest, statutory attorney's fees, cost reimbursements and any other compensation or damage which might be due Flightline.

DGS/dre

Attachments

Exhibit A – Location map

Exhibit B – Parcel Sketch

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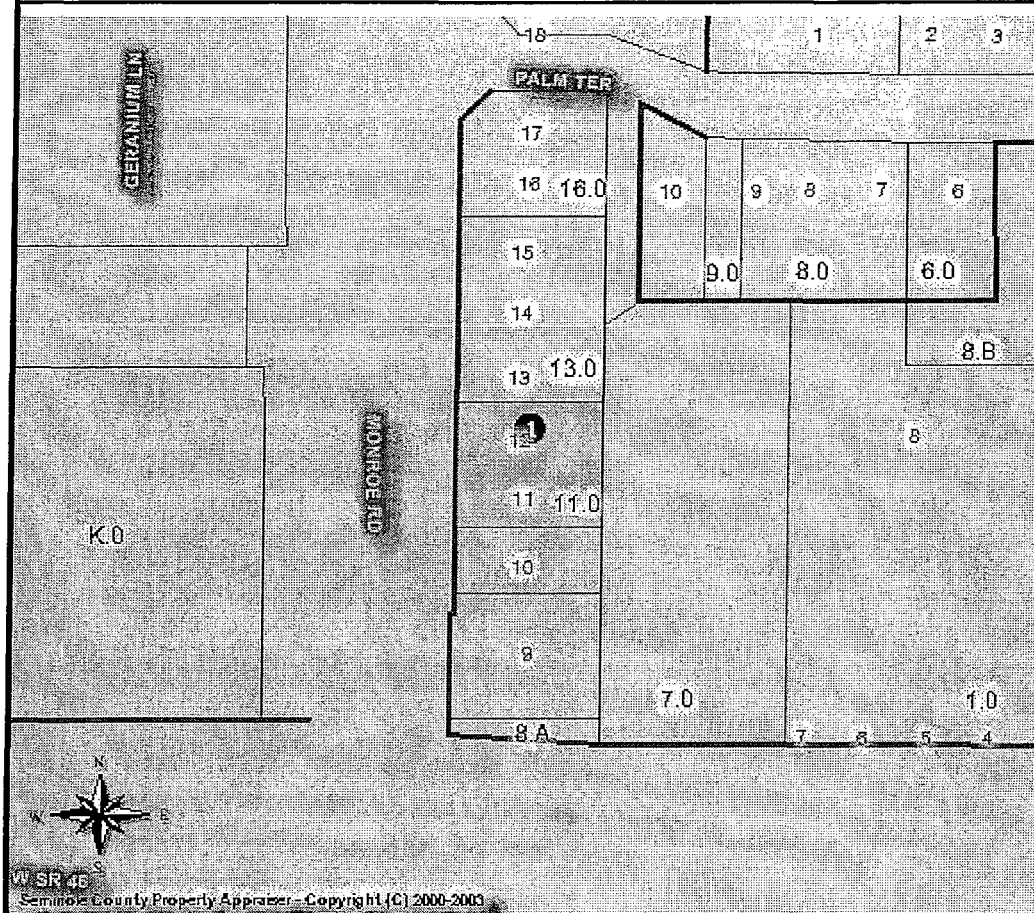
SEMINOLE COUNTY FL.

**PROPERTY APPRAISER**

DAVID JOHNSON, CFA, ASA

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**PROPERTY APPRAISER**  
 SEMINOLE COUNTY FL.  
 1101 E. FIRST ST  
 SANFORD, FL 32771-1468  
 407-665-7506

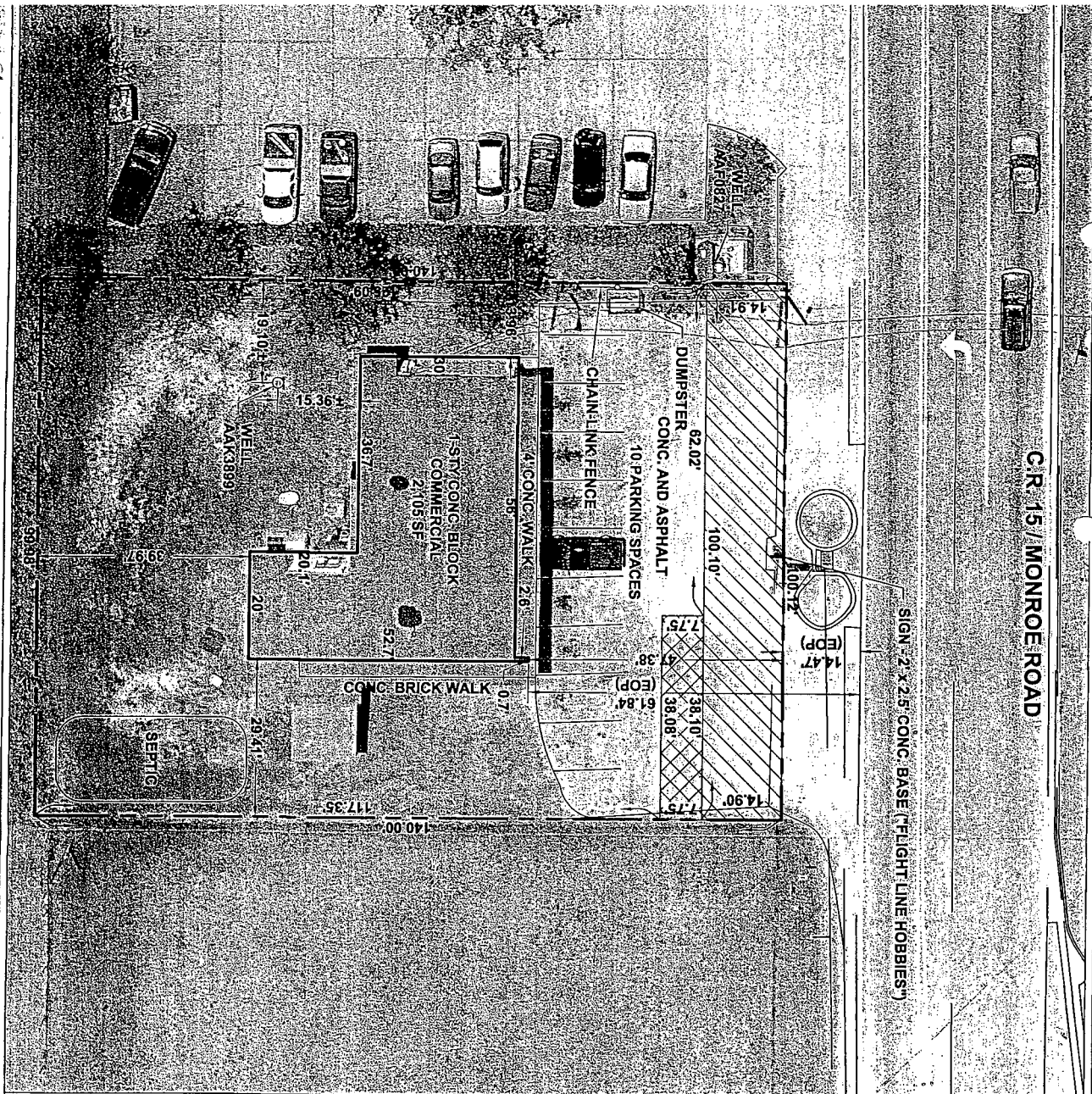
- Legend**
- Selected Features
  - County Boundary
  - Streets
  - Hydrology
  - Subdivision Lines
  - Parcels
  - Parcel Anno



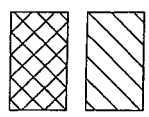
| Rec | Parcel            | Owner         | Owner Addr           | City     | State | Zip   |
|-----|-------------------|---------------|----------------------|----------|-------|-------|
| 1   | 28193050300000110 | SINGH WINSTON | 2809 WALDENS POND CV | LONGWOOD | FL    | 32779 |

EXHIBIT A

# EXHIBIT B



- PARENT TRACT AREA OF TAKE 14,007 SF
- AREA OF TCE 1,492 SF
- REMAINDER TRACT 285 SF
- PROPERTY LINE 12,515 SF
- AREA OF TAKE (PARCEL 103)
- AREA OF TCE (PARCEL 703)



PARENT TRACT : WITH TAKING SHOWN

PARCEL 103/703  
C.R. 15 / MONROE ROAD  
SEMINOLE CO., FLORIDA

|                   |     |                    |
|-------------------|-----|--------------------|
| BLDG. EOP SETBACK | PHP | 6/24/06            |
| SCALE AS SHOWN    |     |                    |
| DRAWN             | PHP | APPROVED: JAC      |
| CHECKED           | DD  | APP. DATE 06/28/06 |



gal consultants  
618 East South Street  
Oviedo, Florida 32061  
407-439-8038

SHEET: 2  
PROJECT NUMBER: 1605550  
FILE NAME: 06103-703.dwg